

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ZDZISLAW MOL :
Plaintiff, :
: :
v. : : CIVIL ACTION NO. 18-3160
: :
NANCY A. BERRYHILL, ACTING :
COMMISSIONER OF SOCIAL SECURITY :
Defendant. :

ORDER

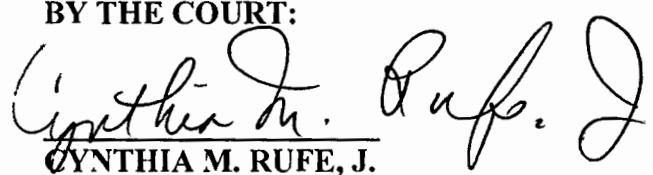
FILED
JUN 10 2019
BY KATE BARKMAN, Clerk
Dep. Clerk

AND NOW, this 10th day of June 2019, upon careful and independent consideration of Plaintiff's Request for Review, the response and reply thereto, the administrative record, and the Report and Recommendation ("R&R") of United States Magistrate Judge Thomas J. Rueter, to which no objections have been filed, it is hereby ORDERED that:

1. The R&R [Doc. No. 20] is APPROVED and ADOPTED¹; and
2. Plaintiff's Request for Review [Doc. No. 16] is GRANTED, and this matter is REMANDED to the Commissioner for further review pursuant to the fourth sentence of 42 U.S.C. § 405(g).

It is so ORDERED.

BY THE COURT:


CYNTHIA M. RUFE, J.

¹ The Court agrees with the conclusions of the detailed R&R that the opinion of the Administrative Law Judge ("ALJ") was not supported by substantial evidence. At step two, the ALJ without adequate explanation rejected evidence of Plaintiff's anxiety, even though at this step "an applicant need only demonstrate something beyond a slight abnormality or a combination of slight abnormalities which would have no more than a minimal effect on an individual's ability to work." *McCrea v. Comm'r of Soc. Sec.*, 370 F.3d 357, 360 (3d Cir. 2004) (internal quotations and citation omitted). Moreover, because this condition potentially exacerbates the effects of Plaintiff's cardiac disease, the failure to adequately assess it affected the determination of Plaintiff's Residual Functional Capacity and thus was not harmless. The case will be remanded for the ALJ to provide a full explanation of the basis for the decision, for consideration of all of Plaintiff's potential limitations (including, if the evidence supports it, limitations related to back pain) and for such other proceedings as may be appropriate. Because the case will be remanded, the Court agrees with the conclusion of the R&R that it is unnecessary to rule on the Appointments Clause issue.

ENTD JUN 10 2019